

offshore trade as part of a through movement of cargo via transshipment involving the foreign commerce of the United States shall be considered to be in the foreign commerce of the United States and, therefore, subject to the Shipping Act of 1984 and the rules of this part.

(kk) *Vessel-operating costs* means any of the following expenses incurred by an ocean common carrier: Salaries and wages of officers and unlicensed crew, including relief crews and others regularly employed aboard the vessel; fringe benefits; expenses associated with consumable stores, supplies and equipment; vessel fuel and incidental costs; vessel maintenance and repair expense; hull and machinery insurance costs; protection and indemnity insurance costs; costs for other marine risk insurance not properly chargeable to hull and machinery insurance or to protection and indemnity insurance accounts; and charter hire expenses.

[49 FR 45351, Nov. 15, 1984; 49 FR 48927, Dec. 17, 1984, as amended at 50 FR 6944, Feb. 19, 1985; 61 FR 11574, Mar. 21, 1996]

## Subpart B—Scope

### § 572.201 Subject agreements.

(a) *Ocean common carrier agreements.* This part applies to agreements by or among ocean common carriers to:

- (1) Discuss, fix, or regulate transportation rates, including through rates, cargo space accommodations, and other conditions of service;
- (2) Pool or apportion traffic, revenues, earnings, or losses;
- (3) Allot ports or restrict or otherwise regulate the number and character of sailings between ports;
- (4) Limit or regulate the volume or character of cargo or passenger traffic to be carried;
- (5) Engage in exclusive, preferential, or cooperative working arrangements among themselves or with one or more marine terminal operators or non-vessel-operating common carriers;
- (6) Control, regulate, or prevent competition in international ocean transportation; and
- (7) Regulate or prohibit their use of service contracts.

(b) *Marine terminal operator agreements involving foreign commerce.* This

part applies to agreements (to the extent the agreements involve ocean transportation in the foreign commerce of the United States) among marine terminal operators and among one or more marine terminal operators and one or more ocean common carriers to:

- (1) Discuss, fix, or regulate rates or other conditions of service; and
- (2) Engage in exclusive, preferential, or cooperative working arrangements.

[49 FR 45351, Nov. 15, 1984; 49 FR 48927, Dec. 17, 1984]

### § 572.202 Non-subject agreements.

This part does not apply to the following agreements:

- (a) Any acquisition by any person, directly or indirectly, of any voting security or assets of any other person;
- (b) Any maritime labor agreement;
- (c) Any agreement related to transportation to be performed within or between foreign countries;
- (d) Any agreement among common carriers to establish, operate, or maintain a marine terminal in the United States;
- (e) Any agreement among marine terminal operators which exclusively and solely involves transportation in the interstate commerce of the United States;
- (f) Any agreement exclusively and solely among non-vessel-operating common carriers;
- (g) Any agreement exclusively and solely among ocean freight forwarders.

## Subpart C—Exemptions

### § 572.301 Exemption procedures.

(a) *Authority.* The Commission, upon application or on its own motion, may by order or rule exempt for the future any class of agreements between persons subject to the Act from any requirement of the Act if it finds that the exemption will not substantially impair effective regulation by the Commission, be unjustly discriminatory, result in substantial reduction in competition, or be detrimental to commerce.

(b) *Optional filing.* Notwithstanding any exemption from filing, or other requirements of the Act and this part, any party to an exempt agreement may